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17. ABSTRACT (MAX. 250 WORDS)

Numerous provisions have been made by New York State to assist and to protect farmers, their workers, and the public. Special services and laws show the nature of this assistance with regard to the administration and supervision of migrant child care programs, education of migrant children, sanitary regulations for farm labor camps, farm labor registration, operation of labor camp commissaries, child labor, payment of wages, transportation, and social welfare.

The Joint Legislative Committee is making a study of the administration of the migrant labor laws and is considering recommendations for future legislation. During the harvesting season, the Committee endeavors to determine how legislation is received by those affected and whether or not it accomplishes its objectives.

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NEW YORK STATE
NELSON A. ROCKEFELLER, GOVERNOR

ED002553

SUMMARY

of

RULES, REGULATIONS AND LAWS THAT AFFECT SEASONAL FARM AND FOOD PROCESSING WORKERS AND THEIR EMPLOYERS IN NEW YORK STATE

Adams State College of Colorado
Alamosa

J0647

U. S. DEPARTMENT OF HEALTH, EDUCATION AND WELFARE
Office of Education

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Numerous provisions have been made by New York State to assist and to protect farmers, their workers and the public. Special services and laws spell out the nature of this assistance.

The following brief summary indicates the more important services that are available and describes selected laws that directly affect the farm labor situation.

DEPARTMENT OF AGRICULTURE AND MARKETS

The Executive Assistant to the Commissioner of Agriculture and Markets serves as Executive Secretary of the New York State Interdepartmental Committee on Farm and Food Processing Labor. He coordinates the activities of the State departments and agencies concerned with the farm and food processing labor program and endeavors to keep each department informed of the activities of the other departments.

The Executive Assistant to the Commissioner keeps informed on regulations of state and federal departments and agencies as they affect agriculture. He is available to assist farmers and food processors with problems growing out of efforts to keep programs in compliance with regulations. When called upon, he acts as liaison between farmers and state departments and agencies.

Under a law passed by the 1950 New York State Legislature, the Department of Agriculture and Markets was given the responsibility for administration and supervision of the migrant child care program.

For the 1963 season, the Department of Agriculture and Markets has reentered into contract with the New York State Federation of Growers' and Processors' Associations, Inc., to operate the child care centers. This service is offered to every grower in New York State who complies with the conditions stated below. The centers are combination units caring for infants, preschool and school-age children and are located in the rural areas.

The procedure for establishing a migrant child care center is as follows:

1. The camp operator indicates to the Federation Manager his desire for a center.

2. The Federation Manager submits a budget and a contract to the camp operator who underwrites 10% of the budget.

3. The Federation makes application to the Department of Social Welfare for a permit to operate.

4. The child care maintenance man gets equipment and supplies into each center.

5. Each project will have a director, assistant director, group leaders and part-time cook. For 20 children there is planned an instructional staff of three. Another staff member is added for each additional 10 children. Each staff member receives a week's training before going to her project.

6. During the operating season, the State or area supervisor makes at least one visit a week to each project. A Health Department nurse visits each center soon after it opens. Clinic service for child health examinations and immunizations are available for every child.

7. A financial statement of the season's operation is made to each of the contributing growers.

EDUCATION AND MIGRANT CHILDREN

The Education Law requires all children from 7 to 16 years of age to attend school regularly and to be orderly while attending. The law also permits children from 5 to 21 years of age to attend. Children must have reached their fifth birthday by December 1 of the current school year. Regulations provide that children under or over the compulsory school age must conform to school standards that are set for the children in the compulsory school age group. The children of seasonal workers are beneficiaries under this law which guarantees the right to an education for all children. Employers of seasonal labor can help local school authorities provide better services for the children of migrant workers by encouraging migrant parents to enroll their children.

All children residing in a local district at the time of the annual census must appear on the census. The law requires that all questions pertaining to a census must be answered for the enumerator. Laws regarding employment of minors apply to all children when school is in session and during vacation periods. Applications for employment certificates may be secured from the school in the community where the minor is to be employed. Legal requirements as to parental approval and physical examination will be explained by the school certificating officer.

Persons concerned with migrant laborers can effectively assist the Interdepartmental Committee on Farm and Food Processing Labor in creating an understanding of our education laws and assisting school authorities in providing the best services for migrant children. Parents should be encouraged to send their children to school, along with any records that will help in their child's grade placement and in providing special services to meet individual needs.

Detailed information regarding the Education Law may be secured by writing to the Bureau of Guidance of

the State Education Department in Albany. Information concerning summer schools for the children of migrant workers may be secured by writing to Mr. Werner Ruef, Bureau of Elementary Education, State Education Department, Albany, New York. The present Education Law provides full reimbursement to local school authorities who operate summer schools for the children of migrant workers.

DIVISION OF STATE POLICE

The New York State Police is a part of the Executive Department and is represented on the Interdepartmental Committee on Farm and Food Processing Labor. The Health and Labor Departments make inspections of the farm labor camps and in the event violations of the Labor Law and the State Sanitary Code are disclosed, the State Police will assist in the proper filing of Informations and any Warrants obtained as a result thereof will be executed by members of the Division.

The New York State Police is a law enforcement agency and takes summary police action whenever a violation of law comes to their attention.

The following is but a partial list of violations for which arrests must be made, as each is a violation of law:

To deal or traffic in alcoholic beverages unless licensed.

To get drunk.

To hunt or fish unless licensed.

To assault another.

To kill anyone - in any manner.

To burglarize or break into any place.

To carry or use dangerous weapons without a permit - gun, knife, club, blackjack.

To use offensive language or to annoy or interfere with any person, any place.

To take anything which belongs to someone else.

To destroy someone else's property.

To drive a car or truck unless properly licensed to do so in New York State and the car or truck is properly registered in New York State.

PUBLIC HEALTH LAWS

The Public Health Council has the power to establish and, from time to time, amend and repeal sanitary regulations to be known as the Sanitary Code* of the State of New York, subject to approval by the Commissioner.

The Sanitary Code requires that application be made for a permit to operate a farm or food processing labor camp as defined in the Sanitary Code. The Sanitary Code authorizes appropriate officers or agencies to issue such permit when the applicant is in compliance with the established regulations. The Code prescribes standards for living quarters at farm and food processing labor camps, including provisions for sanitary conditions; light, air and safety. The Code provides standards for protection from from fire hazards; maintenance; and such other matters as may be appropriate for security of life and health. The provision of the Sanitary Code as established, shall apply to all farm and food processing labor camps intended to house migrant workers and which are occupied by five or more persons.

In the preparation of such regulations, the Public Health Council may request and shall receive technical assistance from the Board of Standards and Appeals of the State Department of Labor and the State Division

of housing. Such regulation shall be enforced in the same manner as are other provisions of the Sanitary Code.

According to Section 229 of the Public Health Law, the provisions of the State Sanitary Code have the force and effect of law.

The Public Health Law (Section 1330) provides for a proceeding to enjoin the operation of a labor camp for violations of the Public Health Law or Sanitary Code as determined by the county or district health officer having jurisdiction, under the Civil Practice Act. (Article 51, 52 and 53)

The Public Health Law (Section 1331) provides a procedure by which the county or district health officer having jurisdiction may obtain compliance with the provisions of the Public Health Law or Sanitary Code as related to labor camps. This section of the law also provides for penalties and for an order to vacate for failure to comply.

*The standards as prescribed by the Public Health Council are included in Chapter XV Farm Labor Camps. Copies of Chapter XV may be obtained from the county health department or the state district health office having jurisdiction or from the State Department of Health, Division of Environmental Health Services, General Engineering Services Section, 84 Holland Avenue, Albany, New York.

DEPARTMENT OF LABOR

FARM LABOR REGISTRATION

Contractors and Crew Leaders

If you expect to work as a farm labor contractor (crew leader) who, for a fee, will recruit, transport, supply or hire ANY WORKERS, WHETHER INTERSTATE MIGRANTS OR NOT, to work for a New York State farmer or food processor; or who will, for a fee, direct, supervise or control any part of the work of farm or food processing workers whom you have recruited, transported, supplied or hired:

You must obtain a Certificate of Registration from the Industrial Commissioner by submitting an application furnishing information on wages, working conditions, housing, and such other matters as the Commissioner may prescribe, together with your fingerprints. A separate application must be completed for and countersigned by each grower or processor who will utilize your services, stating that the information therein is true to the best of his knowledge and belief.

The Industrial Commissioner will issue a Certificate of Registration to you for each grower or processor you will serve and will also issue a separate Certificate of Registration to each such grower or processor. No grower or processor may utilize your services unless both you and he have certificates authorizing such service. You must keep your certificate(s) in your immediate personal possession to show the Industrial Commissioner's representative on request.

Copies of the wage and job information you submit will be returned to you. You must give a copy to each worker preferably at the time of recruitment but in no event later than the time of arrival in this State if the worker comes from outside of the state, or at the time

of commencement of work if the worker comes from New York State. A copy must also be posted at all times in a conspicuous place in any camp in which such workers are housed.

GROWERS AND PROCESSORS USING CONTRACTORS

You may not utilize the services of a farm labor contractor unless he has obtained a Certificate of Registration from the Department of Labor naming you as the person he will serve and unless you have obtained a Certificate of Registration. Certificates of Registration will be issued to you and your contractor after an application, submitted by the contractor, is countersigned by you and approved by the Department of Labor.

A grower or processor may utilize the services of a registered farm labor contractor for not more than five days, provided, he shall within 24 hours after the beginning of such utilization, countersign the application of such farm labor contractor, and immediately thereafter transmit the said application to the Industrial Commissioner.

If a farm labor contractor whose services you are utilizing fails to comply with the requirements for posting and distributing copies of the information submitted by him, or those relating to the keeping of payroll records and the giving of wage statements to the workers, the Industrial Commissioner will notify you, and the responsibility for compliance shall thereafter be imposed on you.

See requirements for contractor registration (above) and those relating to record keeping and wage statements (next page)

GROWERS AND PROCESSORS NOT USING CONTRACTORS

If you will bring, or will be responsible for bringing, five or more out-of-state migrant workers into New York State:

You must furnish information on wages, housing and working conditions and obtain, from the Industrial Commissioner, a Certificate of Registration each year BEFORE the migrants are brought into the state. This Certificate must be kept available for presentation, upon request, to any duly authorized representative of the Industrial Commissioner.

Copies of the wage and job information you submit will be returned to you. You must give a copy to each migrant and post a copy in each labor camp in which such migrants are housed.

PAYROLL RECORDS - WAGE STATEMENTS

ALL CONTRACTORS must keep payroll records showing for each worker: wage rates; wages earned; number of hours worked if worker is paid on an hourly basis or the number of units produced if the worker is paid on a piece-work basis (for all minors 12-14 years old employed on piece work, enter both units done and hours worked); all withholdings from wages; and the net wages paid. These records shall be kept on a form and in a manner prescribed by the Commissioner and shall be available for inspection by any duly authorized representative of the Industrial Commissioner at any reasonable time.

Contractors are also required to give to each worker with every payment of wages, a written statement showing the worker's wage rate; wages earned; number of hours worked if worker is paid on an hourly basis or the number of units produced if the worker is paid on a piece-work basis (for all minors 12-14 years old employed on piece-work, enter both units done and hours worked);

all withholdings from wages; and the net wages paid.

GROWERS AND PROCESSORS USING CONTRACTORS who are notified by the Industrial Commissioner that their contractor(s) are not keeping payroll records and/or giving wage statements to the workers as required, shall thereafter be responsible for keeping the records and giving the statements.

GROWERS AND PROCESSORS NOT USING CONTRACTORS who are required to obtain a Certificate of Registration must keep payroll records showing for each worker: wage rates; wages earned; number of hours worked if worker is paid on an hourly basis or the number of units produced if the worker is paid on a piece-work basis (for all minors 12-14 years old employed on piece-work enter both units done and hours worked); all withholdings from wages; and the net wages paid. These records shall be kept on a form and in a manner prescribed by the Commissioner and shall be kept readily available for inspection by any duly authorized representative of the Industrial Commissioner at any reasonable time.

Growers and processors not using contractors are also required to give to each worker with every payment

of wages, a written statement showing the worker's wage rate; wages earned; number of hours worked if worker is paid on an hourly basis or the number of units produced if the worker is paid on a piece-work basis (for all minors 12-14 years old employed on piece-work, enter both units done and hours worked); all withholdings from wages; and the net wages paid.

LABOR CAMP COMMISSARIES

If you intend to operate, or cause to allow the operation, of a labor camp commissary where any wares, merchandise, or food (including meals) will be sold to workers;

You must obtain a permit from the Industrial Commissioner each year BEFORE you may operate such commissary. This permit must be conspicuously posted in the commissary.

You will also be required to post, and keep posted, in a conspicuous place, the current prices of all goods which are offered for sale or lease to workers, and may not charge more than the prices listed on the poster.

DENIAL, REVOCATION, OR SUSPENSION OF CERTIFICATES AND PERMITS

The Industrial Commissioner may revoke, suspend or refuse to issue or renew the aforementioned certificates or permit if it is found the registrant has violated the Labor or Penal Laws; or has been convicted of any crime or offense except traffic violations; or has made misrepresentations or false statements in his application; or has given false or misleading information to his workers.

CHILD LABOR

FARMS

CHILDREN UNDER 14 YEARS OF AGE may not work on any job, except that children 12 years and older may work on the home farms of their parents or guardians and except that children 12 years of age and over who present farm work permits may assist in the hand work harvest of berries, fruits, and vegetables, for a period of 4 hours in any work day between the hours of 9 o'clock in the forenoon and 4 o'clock in the afternoon and only at times when school is not in session and the children are accompanied by a parent or have presented the written consent of a parent, or party with whom they reside, to their employer.

CHILDREN BETWEEN 14 and 16 must obtain "FARM WORK PERMIT" before they may work. The employer must sign the permit and the minor must keep it.

CANNERIES

CHILDREN UNDER 16 may not work in any factory except that children 14-16 years of age for whom vacation work permits have been issued may be employed in delivery and clerical employment in the office of a factory provided that such office is enclosed and separate from the place where manufacturing is carried on and provided that the minor is not engaged in any manufacturing operation or process.

CHILDREN BETWEEN 16 and 18 must obtain "STANDARD EMPLOYMENT CERTIFICATE" before they may work. The employer must keep this certificate in his file.

PROOF OF AGE

Before Farm Work Permits or Standard Employment Certificates can be issued, the local school authorities must receive proof of the minor's age, the consent of

the parents, and a certificate of the minor's physical fitness. It is necessary, therefore, that ALL MINORS FROM OTHER STATES bring official evidence of age with them.

The following types of documentary evidence are acceptable:

Birth certificate; baptismal certificate; passport; immigration records; naturalization papers; adoption papers; records of social welfare agencies dealing with families and children; census age records; certificate of circumcision; bible records; confirmation certificate; Sunday school records; commitment records to institutions for children; hospital and clinic records; records of settlement clubs and classes; vaccination certificates; and public school records.

WAGES

Wages must be paid weekly or in full every two weeks DEDUCTIONS FROM WAGES, other than legal withholdings such as social security ARE PROHIBITED.

THE INDUSTRIAL COMMISSIONER is authorized to cooperate with any employee in the enforcement of a just claim against his employer and for his protection against frauds or other improper practices; to investigate and adjust claims for wages; and to institute court action for wages due.

VIOLATIONS

Violations of any provision of the Labor Law or of any provision of the Industrial Code, or any rule, regulation, or lawful order of the Department of Labor is a misdemeanor and is punishable by fine or imprisonment or both.

INSURANCE

Although farmers are not required to carry workmen's compensation insurance for employees working solely in agricultural occupations, many farmers, in order to protect themselves and their employees, have voluntarily purchased workmen's compensation insurance or Farmers' Liability Insurance with medical payments.

FARMER-WORKER CONTACTS

The New York State Employment Service assists in the recruitment and placement of farm workers. In each of the major agricultural counties in the state there is a Farm Employment Representative located in the office of the State Employment Service. Information with respect to job opportunities and available workers may be obtained from the Farm Employment Representative.

ADDRESS INQUIRIES OR REQUESTS TO:

State of New York - Department of Labor

Division of Labor Standards

at the nearest office listed below:

NEW YORK CITY - 80 Centre Street
ALBANY -------- State Office Building
BINGHAMTON ---- 221 Washington Street
BUFFALO ------- State Office Building
HEMPSTEAD ----- 134 Jackson Street
ROCHESTER ----- 155 West Main Street
SYRACUSE ------ State Office Building
UTICA --------- 500 Charlotte Street
WHITE PLAINS -- 300 Hamilton Avenue

DEPARTMENT OF MOTOR VEHICLES

Under the provisions of the Vehicle and Traffic Law, a non-resident seasonal farm worker satisfying the following requirements may secure a seasonal permit for his motor vehicle. The applicant must furnish proof that the vehicle is currently registered in his home state and submit an insurance certificate issued by a company authorized to issue liability and property damage insurance in the owner's state of residence or in New York State. The applicant must provide a statement signed by his farmer employer, certifying that the applicant works for him on his farm. This pertains only to farm labor; cannery labor is not included.

In regard to the registration of vehicles of migrant workers, a car, truck or bus may be given a temporary permit to operate in New York State as long as the vehicle is used for only the transportation of people for which no charge is made. Under no circumstances may a vehicle operating on temporary permit be used to transport produce on the public highways. In order to comply for this type of work, a vehicle must be registered the same way as any other New York State vehicle.

Under a new law, effective June 1, 1961, a 7-day grace period (after entry into the state) is allowed for securing either permit. However, during such 7-day period the vehicle would have to be insured - even though proof of insurance does not have to be filed until application for the vehicle permit is presented - or the owner and operator will face the loss of all non-resident privileges as a result of the compulsory insurance law.

A companion statute provides for the issuance of a driving permit to any seasonal farm laborer who is presently employed, who is 18 or more years of age and who possesses a valid driving license issued by his home state. It is not necessary to take or to pass driving

tests in order to secure such a New York State permit, but he must successfully pass vision and highway sign identification tests before the permit can be issued. The permit is valid from June 1 until November 30 of the year in which it is issued. The permit authorizes the holder to drive his own vehicle in transporting workers to and from fields and to drive trucks when the trucks are used to transport produce locally for his farm employer. The permit does not authorize the holder to operate any vehicles for hire for other than the farmer who is his direct or indirect employer.

Regulation with respect to the transportation of workers requires that any truck that carries workers more than five miles must have:

1. Firmly attached seats for two-thirds of the workers.

2. Firmly attached side racks at least three feet high.

3. A securely closed tail board or end gate.

4. One person 21 or more years of age, on the rear of the truck if more than five youths under 18 are being transported.

Any properly licensed person is authorized to drive in New York State any vehicle he is currently authorized by license to drive in his home state.

New driving permits are required each year and the fee for each type of permit is two dollars.

A truck, bus or car must be inspected in accordance with the requirements for each type of vehicle operated upon the highways of New York State. Authorized inspections are made at any licensed motor vehicle inspection station.

All vehicles more than four years old must be inspected before being registered in New York State. However, vehicles which are brought in from out of state may be granted a ten-day permit to permit the inspection after the registration is accomplished.

Buses used to transport children and instructors to and from child care centers must be equipped with school bus signs and flashing signal lamps in the same manner as school buses.

DEPARTMENT OF SOCIAL WELFARE

The Social Welfare Law provides for the furnishing of assistance and care to persons who are eligible. Information with respect to assistance and care available to needy migrant farm workers may be obtained from the local county commissioner of public welfare in whose district the migrant camp is located, or from the State Department of Social Welfare, 112 State Street, Albany, New York. Inquiries may also be sent to Mr. Horace M. Putnam, Executive Secretary of the Interdepartmetal Committee on Farm and Food Processing Labor, Governor Alfred E. Smith State Office Building, Albany 1, New York.

The State Department of Social Welfare is responsible for studying and approving the migrant child care centers meeting requirements which relate to physical facility and all aspects of the program. Emphasis is placed upon the protection and care of children, including the health, safety, treatment and training of children. Rules regulate indoor and outdoor play space, separation and size of groups, the adequacy of personnel, and their ratio to children, as well as the nutrition and health care of children.

EXTENSION SERVICE

The Extension Service is basically a division of the State Colleges of Agriculture and Home Economics, conducting educational programs with rural people in all areas of the State.

Its programs include helping growers and processors to understand the need for adequate housing for seasonal workers and in informing growers of the programs of the various State departments and agencies concerned with migrant labor.

NEW YORK STATE
JOINT LEGISLATIVE COMMITTEE ON MIGRANT LABOR

The New York State Joint Legislative Committee on Migrant Labor has membership on the Interdepartmental Committee and lends valuable assistance to the whole migrant program.

The Joint Legislative Committee is currently making a study of the administration of the migrant labor laws that have been passed since its inception and is considering all recommendations for future legislation, as well as reviewing bills that are introduced without its knowledge.

During the harvesting season, the Committee endeavors to determine how well present legislation is received by those affected and whether or not it accomplishes its objectives.

Prepared By

New York State Interdepartmental Committee on Farm and Food Processing Labor

Revised July 1963

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